

104TH CONGRESS
2D SESSION

S. 1758

To amend the Packers and Stockyards Act, 1921, to improve the administration of the Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 1996

Mr. PRESSLER introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Packers and Stockyards Act, 1921, to improve the administration of the Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Packers and Stock-
5 yards Improvement Act of 1996”.

6 **SEC 2. LIVESTOCK DEALER TRUST.**

7 Title III of the Packers and Stockyards Act, 1921
8 (7 U.S.C. 201 et seq.), is amended by adding at the end
9 the following:

1 **“SEC. 318. LIVESTOCK DEALER TRUST.**

2 “(a) FINDINGS.—Congress finds that—

3 “(1) a burden on and obstruction to commerce
4 in livestock is caused by financing arrangements
5 under which dealers and market agencies purchasing
6 livestock on commission encumber, give lenders secu-
7 rity interests in, or have liens placed on livestock
8 purchased by the dealers and market agencies in
9 cash sales, or on receivables from or proceeds of the
10 sales, when payment is not made for the livestock;
11 and

12 “(2) the carrying out of the arrangements is
13 contrary to the public interest.

14 “(b) PURPOSE.—The purpose of this section is to
15 remedy the burden on and obstruction to commerce in live-
16 stock described in subsection (a)(1) and protect the public
17 interest.

18 “(c) DEFINITIONS.—In this section:

19 “(1) CASH SALE.—The term ‘cash sale’ means
20 a sale in which the seller does not expressly extend
21 credit to the buyer.

22 “(2) TRUST.—The term ‘trust’ means 1 or
23 more assets of a buyer that (subsequent to a cash
24 sale of livestock) constitute the corpus of a trust
25 held for the benefit of a seller and consist of—

1 “(A) accounts receivable and proceeds
2 earned from the cash sale of livestock by a deal-
3 er or market agency buying on a commission
4 basis;

5 “(B) accounts receivable and proceeds of a
6 marketing agency earned on commission from
7 the cash sale of livestock;

8 “(C) the inventory of the dealer or market-
9 ing agency; or

10 “(D) livestock involved in the cash sale, if
11 the seller has not received payment in full for
12 the livestock and a bona fide third-party pur-
13 chaser has not purchased the livestock from the
14 dealer or marketing agency.

15 “(d) HOLDING IN TRUST.—

16 “(1) IN GENERAL.—The accounts receivable
17 and proceeds generated in a cash sale made by a
18 dealer or a market agency on commission and the
19 inventory of the dealer or market agency shall be
20 held by the dealer or market agency in trust for the
21 benefit of the seller of the livestock until the seller
22 receives payment in full for the livestock.

23 “(2) EXEMPTION.—Paragraph (1) does not
24 apply in the case of a cash sale made by a dealer
25 or market agency if the total amount of cash sales

1 made by the dealer or market agency during the pre-
2 ceding 12 months does not exceed \$250,000.

3 “(3) DISHONOR OF INSTRUMENT OF PAY-
4 MENT.—A payment in a sale described in paragraph
5 (1) shall not be considered to be made if the instru-
6 ment by which payment is made is dishonored.

7 “(4) LOSS OF BENEFIT OF TRUST.—If an in-
8 strument by which payment is made in a sale de-
9 scribed in paragraph (1) is dishonored, the seller
10 shall lose the benefit of the trust under paragraph
11 (1) on the earlier of—

12 “(A) the date that is 15 business days
13 after the date on which the seller receives notice
14 of the dishonor; or

15 “(B) the date that is 30 days after the
16 final date for making payment under section
17 409;

18 unless the seller gives written notice to the dealer or
19 market agency of the seller’s intention to preserve
20 the trust and submits a copy of the notice to the
21 Secretary.

22 “(5) RIGHTS OF THIRD-PARTY PURCHASER.—
23 The trust established under paragraph (1) shall have
24 no effect on the rights of a bona fide third-party
25 purchaser of the livestock, without regard to whether

1 the livestock are delivered to the bona fide pur-
 2 chaser.

3 “(e) JURISDICTION.—The district courts of the Unit-
 4 ed States shall have jurisdiction in a civil action—

5 “(1) by the beneficiary of a trust described in
 6 subsection (d)(1), to enforce payment of the amount
 7 held in trust; and

8 “(2) by the Secretary, to prevent and restrain
 9 dissipation of a trust described in subsection
 10 (d)(1).”.

11 **SEC. 3. REPORTS TO SECRETARY.**

12 Section 401 of the Packers and Stockyards Act, 1921
 13 (7 U.S.C. 221), is amended—

14 (1) by striking “SEC. 401. Every” and inserting
 15 the following:

16 **“SEC. 401. ACCOUNTS AND RECORDS OF BUSINESSES; RE-
 17 PORTS TO SECRETARY.**

18 “(a) ACCOUNTS AND RECORDS.—Each”; and

19 (2) by adding at the end the following:

20 “(b) REPORTS TO SECRETARY.—Each packer, stock-
 21 yard owner, market agency, and dealer shall report to the
 22 Secretary, in a manner determined by the Secretary—

23 “(1) the quantity of livestock and livestock
 24 products exported from, and imported into, the
 25 United States; and

1 “(2) the price paid for livestock.”.

2 **SEC. 4. INCLUSION OF FORMULA-PRICED CATTLE IN DEFINITION OF CAPTIVE SUPPLY.**

4 Section 407 of the Packers and Stockyards Act, 1921
5 (7 U.S.C. 228), is amended by adding at the end the following:
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7 “(e) INCLUSION OF FORMULA-PRICED CATTLE IN
8 DEFINITION OF CAPTIVE SUPPLY.—The Secretary shall
9 include all formula-priced cattle in the definition of captive
10 supply for purposes of collecting data to carry out this
11 Act.”.

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